

**218A.435 Asset forfeiture trust fund -- Management -- Distribution.**

- (1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."
- (2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.
- (3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.
- (4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.
- (5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.
- (6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.
- (7) The principal of the trust fund shall be distributed as follows:
  - (a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;
  - (b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;
  - (c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and
  - (d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

- (8) The Attorney General, the secretary of the Cabinet for Health Services, the commissioner of the Department of Corrections, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.
- (9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.
- (11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
- (12) Other provisions of law notwithstanding, the first fifty thousand dollars (\$50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars (\$50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.
- (13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of

participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 426, sec. 492, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 211, sec. 80, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 445, sec. 6, effective July 13, 1990. -- Created 1984 Ky. Acts ch. 101, Ky. Acts ch. 6, effective July 13, 1984.

**2002-2004 Budget Reference.** See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 12(a), at 1728; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 633 (Final Budget Memorandum, at 219).

**2002-2004 Budget Reference.** See State/Executive Branch Budget, 2003 Ky. Acts ch. 156, pt. I, sec. A, item 12(b), at 1728; and State/Executive Branch Budget Memorandum, 2003 Ky. Acts ch. 143, at 638 (Final Budget Memorandum, at 224).